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Docket No.: 393032041200
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Masaaki OKABAYASHI

Application No.: 10/674,265 Confirmation No.: 1767

Filed: September 26, 2003 Art Unit: 2837

For: MIXING METHOD, MIXING APPARATUS, AND PROGRAM FOR IMPLEMENTING THE MIXING METHOD Examiner: J. Qin

SUMMARY OF AN EXAMINER REQUESTED INTERVIEW SUBMITTED BY APPLICANT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On Monday December 19, 2005, Examiner Qin called me to discuss the above referenced application. He told me that the claims were generally in condition for allowance but he would prefer it if one of the limitations of claim 1 were to be removed from the preamble of the claim and placed in the body of the claim. He was referring to the "nonexclusive" clause of claim 1. I agreed to the amendment. In order to ensure a written record, I faxed a copy of proposed amended claims to the Examiner that night. These claims indicated the amendments that the Examiner proposed and I agreed on. Claims 1 and 7 were amended (claim 7 had a similar issue as claim 1).

It is my belief that these amendments were not made for reasons related to patentability as they did not change the scope of the claims, nor did they operate to otherwise make an

unpatentable claim patentable. It is true that sometimes clauses included in the preambles of claims are not considered limiting, but in this case the prosecution history clearly indicates that the "nonexclusive" clause should be limiting even if it is in the preamble. However, it is generally considered stylistically preferable that all limiting clauses are placed in the body of the claim. It was for these stylistic reasons that the amendment was made.

In the event the U.S. Patent and Trademark Office determines that an additional extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 393032041200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 22, 2005

Respectfully submitted,

By _____

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